

ELLIS LAW HORNE

John J. Pringle, Jr.
Direct dial: 803/343-1270
jpringle@ellislawhorne.com

July 26, 2004

VIA ELECTRONIC MAIL SERVICE AND HAND DELIVERY

The Honorable Bruce Duke
Executive Director
South Carolina Public Service Commission
PO Drawer 11649
Columbia SC 29211

RE: Complaint of TC Systems, Inc. against BellSouth Telecommunications, Inc.
Docket No. 2004-118, Our File No. 611-10226

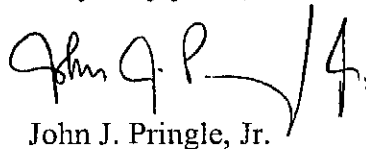
Dear Mr. Duke:

Enclosed is the original and ten (10) copies of the corrected exhibits to the Affidavit of Billy Peacock, Attachment A in support of the Motion for Summary Judgment and Memorandum in Support of Summary Judgment, which were filed on Thursday, July 22, 2004 on behalf of TC Systems, Inc. in the above-referenced docket. Please substitute these exhibits for the ones previously filed.

Please acknowledge your receipt of this document by file-stamping the copy of this letter enclosed, and returning it via the person delivering same.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,



John J. Pringle, Jr.

JJP/cr

cc: Gene Coker, Esquire
all parties of record

Enclosures

EAAPPS\OFFICE\WPWIN\WPDOCS\AT&T\TCG Certification\BellSouth Complaint\DukeComplaint.wpd

Exhibit 1

MASTER NETWORK INTERCONNECTION AND RESALE AGREEMENT

BETWEEN

BELLSOUTH TELECOMMUNICATIONS, INC.

AND

TC SYSTEMS, INC.

This Master Network Interconnection and Resale Agreement ("Agreement") between TC Systems, Inc. ("TCS") and BellSouth Telecommunications, Inc. ("BellSouth"), herein collectively, "the Parties", is entered into and effective this ____ day of _____, 2004 for the State of South Carolina.

NOW THEREFORE, the Parties agree as follows:

The Parties agree that the Agreement between the Parties shall consist of the Interconnection and Resale Agreement for the State of South Carolina entered into by and between BellSouth and AT&T Communications of the Southern States, LLC, dated October 8, 2003 (the "Adopted Agreement"), amended as follows:

1. TERM

- 1.1 This Agreement shall be in force for the period commencing with the date set forth above and continuing until the ____ of _____, or the effective date of a superceding interconnection and resale agreement which is either voluntarily agreed to by the Parties or results from an arbitration order between the parties issued by the Public Service Commission of South Carolina ("South Carolina Commission"), whichever is earlier.

2. GENERAL

- 2.1 Other than as set forth above, the Adopted Agreement remains unchanged and in full force and effect. In the event of a conflict between the terms of this Agreement and the Adopted Agreement, this Agreement will control.
- 2.2 This Agreement executed by authorized representatives of BellSouth and TCS is made a part of and incorporates the terms and conditions of the Adopted Agreement.

3. NOTICES

- 3.1 Except as otherwise provided, all notices and other communication hereunder

By: _____	By: _____
Name (typed): _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Exhibit 2

February 25, 2004

VIA ELECTRONIC AND U.S. MAIL

Nicole Bracy
BellSouth Telecommunications
675 W. Peachtree, Room 34S91
Atlanta, GA 30375

RE: ADOPTION –Master Interconnection and Resale Agreement between
BellSouth and AT&T Communications of the Southern States, LLC
effective December 21, 2001 for the state of South Carolina

Dear Nicole:

The purpose of this letter is to notify you that TCG Systems, Inc. ("TCG") elects to take service pursuant to the entire terms and conditions of the existing Master Interconnection and Resale Agreement approved by the Public Service Commission of South Carolina effective December 21, 2001 between BellSouth Telecommunications, Inc. ("BellSouth"), and AT&T Communications of the Southern States, LLC ("AT&T") ("BellSouth/AT&T Agreement") for the remaining term of the BellSouth/AT&T Agreement for the state of South Carolina. That agreement terminates December 20, 2004. As you know, Section 252(i) of the Telecommunications Act of 1996 provides that BellSouth "shall make available any interconnection, service, or network element provided under an agreement approved under" the Act.

Thank you in advance for your cooperation. We look forward to working with you to complete the adoption agreement of the BellSouth/AT&T Agreement for the state of South Carolina as soon as possible. Please feel free to call me on (678) 715-0289 if you have any questions.

Sincerely,

Original signed by Bill Peacock

Bill C. Peacock
Director – Local Services &
Access Management

Cc: Mark Brown, Esquire
Roberta Stevens

Exhibit 3

BellSouth Interconnection Services

675 W. Peachtree Street, NE
34S91
Atlanta, Georgia 30375

Nicole Bracy
(404) 927-7596
FAX (404) 529-7839

Sent Via E-mail and U.S. Mail

March 8, 2004

Mr. Bill Peacock
Director – Local Services &
Access Management
AT&T
6304 Highway 5
Douglasville, GA 30135

Re: ADOPTION –Master Interconnection and Resale Agreements between BellSouth and AT&T Communications of the Southern States, LLC effective December 21, 2001 for the state of South Carolina

Dear Bill:

This is in response to your letter dated February 25, 2004. BellSouth acknowledges receipt of TCG Systems, Inc.'s (TCG) request to adopt the existing Interconnection Agreement between BellSouth and AT&T for the state of South Carolina. BellSouth would, ordinarily, not oppose to this adoption, however, at this time, the Interconnection Agreement that TCG has requested to adopt is not compliant with current law, and therefore, is not available for adoption.

As you are aware, the recent Federal Communications Commission's (FCC) Triennial Review Order (TRO) significantly modified BellSouth's obligations under the Act. Pursuant to the Modification of Agreement clause in Section 9 of the General Terms and Conditions of the requested Interconnection Agreement, BellSouth and AT&T are in the process of negotiating new provisions. Hence, the requested Interconnection Agreement is not compliant with current law. However, TCG has the option of (1) negotiating from the BellSouth Standard Interconnection Agreement, (2) adopting another CLEC's Interconnection Agreement that is compliant with current law, or (3) adopting a CLEC's Interconnection Agreement, replacing the Unbundled Network Element (UNE) Attachment with the BellSouth Standard UNE Attachment. In the event that TCG adopts the BellSouth standard UNE Attachment, the Parties will continue to negotiate the adopted language in a mutually acceptable manner.

Pursuant to your request, the 135-day window for negotiations began on February 26, 2004. Please let me know how TCG wishes to proceed.

Sincerely,

Original signed by Nicole Bracy

Nicole Bracy
Manager, Interconnection Services

Exhibit 4



Bill C. Peacock
Director – Local Services & Access Management
6304 Hwy 5
Douglasville, Georgia 30135
Tel. No. 678-715-0289
Fax No. 281-664-4382

SENT VIA ELECTRONIC AND US MAIL

March 10, 2004

Ms. Nicole Bracy
Manger – Interconnection Services
BellSouth Interconnection Services
675 W. Peachtree Street, N.E.
34S91
Atlanta, GA 30375

RE: ADOPTION – Master Interconnection and resale Agreement between BellSouth and AT&T Communications of the Southern States, LLC. effective December 21, 2001, for the State of South Carolina

Dear Nicole:

This letter is in response to your correspondence dated March 8, 2004 regarding the request by TC Systems, Inc. (TCS) (referred to as TCG Systems, Inc. in your correspondence) to adopt the existing AT&T Communications of the Southern States, LLC Interconnection Agreement for the state of South Carolina ("AT&T Agreement"). In your response, BellSouth takes the position that while it ordinarily would not be opposed to TCS's request, in this instance BellSouth refuses to comply because in BellSouth's view the "Interconnection Agreement that TCS has requested to adopt is not compliant with current law, and therefore is not available for adoption." BellSouth's refusal is wholly unsupported by current law and, to the extent BellSouth maintains its position in this regard, constitutes an unlawful and discriminatory barrier to entry for TCS service offerings in the State of South Carolina.

The existence of ongoing TRO-amendment negotiations between AT&T and BellSouth does not obviate BellSouth's obligation under federal law to promptly make available to TCS or any other requesting CLEC the terms and conditions contained in the AT&T Agreement duly approved by the Public Service Commission of South Carolina. Federal requirements are straightforward. Section 252(i) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("Act"), mandates that:

A local exchange carrier shall make available any interconnection service, or network element provided under an agreement approved by this section to which

it is a party to any other requesting carrier upon the same terms and conditions as those provided in the agreement.

Similarly, the FCC has codified this requirement in Section 51.809(a) of its rules:

An incumbent LEC shall make available without unreasonable delay to any requesting telecommunications carrier any individual interconnection, service or network element arrangement contained in any agreement to which it is a party that is approved by a state commission pursuant to section 252 of the Act, upon the same rates, terms and conditions as those provided in the agreement.

Accordingly, BellSouth's attempt to unilaterally place conditions on its obligation to permit TCS to adopt a current interconnection agreement pursuant to Section 252(i) is contrary to both the Act and FCC rules. There is no support within the Act for any attempt by BellSouth to make negotiation of TRO amendment language a condition precedent to granting TCS's opt-in request. Rather, after fulfilling its obligation to allow TCS adoption of the identified agreement, BellSouth properly may request that TCS, consistent with the terms of the AT&T agreement, negotiate TRO amendment language as necessary. Any other approach not only violates the clear language of the above-cited federal legal requirements, but also is contrary to the purpose underlying the "opt-in" provisions of Section 252(i) – to prevent discrimination by an RBOC against its competitors, or granting favor to one market entrant over another.

TCS notes that BellSouth's actions in this regard are customer-affecting in nature, and will undermine TCS's ability to offer new services in South Carolina "without unreasonable delay," in accordance with the requirements of the Act. Moreover, the "options" proffered by BellSouth, which include offers to only allow TCS's immediate adoption of approved CLEC contracts that, in BellSouth's unilateral opinion, are "compliant" with current law, underscore the discriminatory nature of BellSouth's position.

Given the time-sensitive and customer-affecting nature of this situation, TCS requests that BellSouth provide a response to this letter by March 16, 2004. Absent immediate resolution of this issue, TCS will be forced to take all necessary action to compel BellSouth's compliance with its "opt-in" obligations under federal law.

Sincerely,

Original signed by Bill C. Peacock

Bill C. Peacock

Cc: Mark E. Brown, Esquire
Roberta Stevens

Exhibit 5

BellSouth Interconnection Services

675 W. Peachtree Street, NE
34S91
Atlanta, Georgia 30375

Nicole Bracy

(404) 927-7596
FAX (404) 529-7839

Sent Via E-mail and U.S. Mail

March 18, 2004

Mr. Bill Peacock
Director – Local Services &
Access Management
AT&T
6304 Highway 5
Douglasville, GA 30135

Re: ADOPTION –Master Interconnection and Resale Agreements between BellSouth and AT&T Communications of the Southern States, LLC effective December 21, 2001 for the State of South Carolina

Dear Bill:

This is in response to your letter dated March 10, 2004, regarding TC Systems, Inc.'s (TCS) request to adopt the existing AT&T Communications of the Southern States, LLC Interconnection Agreement (AT&T Agreement) for the state of South Carolina. BellSouth denies that it has refused to allow TCS the ability to adopt AT&T's existing Agreement. BellSouth advised TCS that the AT&T Agreement was not compliant with current law, but could be adopted by replacing the Unbundled Network Element (UNE) Attachment with the BellSouth Standard UNE Attachment, while continuing to negotiate the current changes in law. BellSouth also offered TCS the options to negotiate from the BellSouth Standard Interconnection Agreement or adopt another CLEC's Interconnection Agreement that is currently compliant with law.

You are correct in your statement that the South Carolina Public Service Commission approved the existing AT&T Agreement. However, the change of law clause in the Agreement grants either party the right to initiate negotiations due to a legal action that materially affects any term of the Agreement. Thus, the outcome of the Federal Communications Commission's (FCC) Triennial Review Order (TRO) significantly modified BellSouth's obligations under the Act, as well as the more recent D.C. Circuit Court of Appeals' ruling. Therefore, it is BellSouth's position that because the terms in the UNE Attachment were almost completely overhauled due to the changes in law, it is reasonable, in an adoption request, for the UNE Attachment to be replaced while continuing negotiations.

For the reasons stated above, BellSouth disagrees that its position is unlawful, "customer-affecting," and causes an unreasonable delay of TCS' ability to provide service in South Carolina. Furthermore, BellSouth's position rests upon, rather than defies, its nondiscrimination obligations. Finally, it is not BellSouth's "unilateral opinion" that determines whether or not an executed Agreement is compliant with current law. Once an agreement or an amendment

containing current changes in law has been executed between BellSouth and a CLEC, it is a mutually agreed upon contract decided by both parties. However, in the spirit of compromise, and because TCS and AT&T are subsidiaries of the AT&T Corporation, BellSouth is amenable to amending AT&T's Interconnection Agreements for all states, except Mississippi, to add TCS as a party to the Agreements. This option is conditional upon TCS terminating its existing Agreements, and TCS and AT&T agreeing to be jointly and severally liable under the amended Agreement. Due to the term of the existing AT&T Agreement in Mississippi approaching expiration, it is not included in this option.

By negotiating one of the previously mentioned options, TCS has the ability to begin offering services in South Carolina within a reasonable time period. In order to prevent further delay, please advise as to how TCS wishes to proceed.

Sincerely,

Original signed by Nicole Bracy

Nicole Bracy
Manager, Interconnection Services

Exhibit 6



Bill C. Peacock
Director – Local Services & Access Management
6304 Hwy 5
Douglasville, Georgia 30135
Tel. No. 678-715-0289
Fax No. 281-664-4382

SENT VIA ELECTRONIC AND US MAIL

March 29, 2004

Ms. Nicole Bracy
Manger – Interconnection Services
BellSouth Interconnection Services
675 W. Peachtree Street, N.E.
34S91
Atlanta, GA 30375

RE: ADOPTION – Master Interconnection and resale Agreement between BellSouth and AT&T Communications of the Southern States, LLC. effective December 21, 2001 for the State of South Carolina

Dear Nicole:

This letter is in response to your correspondence dated March 18, 2004 regarding the request by TC Systems, Inc. (TCS) (referred to as TCG Systems, Inc. in your correspondence) to adopt the existing AT&T Communications of the Southern States, LLC Interconnection Agreement for the state of South Carolina (“AT&T Agreement”).

In your response, “BellSouth denies that it has refused to allow TCS the ability to adopt AT&T’s existing agreement,” while simultaneously seeking to unilaterally impose conditions on TCS’s ability to do so. BellSouth contends that the “change in law clause in the Agreement grants either party the right to initiate negotiations due to a legal action that materially affects any term of the Agreement.” Assuming, *arguendo*, that a change of law is triggered by the proposed opt-in, this does not relieve BellSouth of its obligation to allow TCS to opt-in to the existing AT&T agreement; any obligation to conform the agreement to current law arises from the opt-in process itself, and necessarily should occur in negotiations after the opt-in has occurred. There is no justification for, as BellSouth proposes, modifying the Commission-approved ICA Agreement, replacing major attachments or otherwise limiting TCS’s ability to opt-into the Agreement.

In addition, BellSouth’s “compromise” proposal is both unacceptable and potentially anticompetitive. In order for TCS to finalize an ICA agreement with BellSouth in South Carolina on a timely basis, BellSouth proposes that AT&T, as TCS’s affiliate, amend its existing ICAs in eight of nine BellSouth states to add TCS as a party, with TCS also terminating existing agreements in six states -- all in order to grant TCS access to

Commission-approved provisions in existing ICAs. This approach could retard TCS's ability to roll out products in several BellSouth states, with anticompetitive results. Equally important, as BellSouth is aware, a primary purpose for affiliates such as AT&T and TCS to establish separate ICA agreements with BellSouth is the need for both entities to maintain separate identifying codes for ordering, provisioning, maintenance and billing services obtained pursuant to the ICA. This critical business need is not addressed by BellSouth's proposal.

In the spirit of compromise, TCS agrees that its proposed opt-in to AT&T's existing contract in South Carolina would be conditioned upon an obligation of both parties to incorporate fully into the Agreement the results of its ongoing TRO amendment negotiations. We believe that this approach is consistent with BellSouth's desire to ensure that the agreement reflects current law while not inappropriately limiting TCS' ability to offer services in the South Carolina market.

Again, given the time-sensitive and customer-affecting nature of this situation, TCS requests that BellSouth provide a response to this letter by April 1, 2004. TCS remains hopeful that it will not be forced to take additional action to compel BellSouth's compliance with its "opt-in" obligations under federal law.

Sincerely,

Original signed by Bill C. Peacock

Bill C. Peacock

Cc: Mark E. Brown
Roberta Stevens

Exhibit 7

BellSouth Interconnection Services

675 W. Peachtree Street, NE
34S91
Atlanta, Georgia 30375

Nicole Bracy
(404) 927-7596
FAX (404) 529-7839

Sent Via E-mail and U.S. Mail

April 2, 2004

Mr. Bill Peacock
Director – Local Services &
Access Management
AT&T
6304 Highway 5
Douglasville, GA 30135

Re: ADOPTION –Master Interconnection and Resale Agreements between BellSouth and AT&T Communications of the Southern States, LLC effective December 21, 2001 for the state of South Carolina

Dear Bill:

This is in response to your letter dated March 29, 2004, regarding TC Systems, Inc.'s (TCS) request for adoption of the AT&T Communications of the Southern States, LLC Interconnection Agreement (AT&T's Agreement) for the state of South Carolina. As stated in my previous letters dated March 8, 2004 and March 18, 2004, the Interconnection Agreement that TCS has requested to adopt is not compliant with current law, and therefore, is not available for adoption.

However, BellSouth has offered TCS the following options in an effort to satisfy TCS' ability to roll out products in the state of South Carolina: (1) negotiate from the BellSouth Standard Interconnection Agreement; (2) adopt another CLEC's Interconnection Agreement that is compliant with current law; or (3) adopt AT&T's Agreement or another CLEC's Interconnection Agreement, replacing the Unbundled Network Element (UNE) Attachment with the BellSouth Standard UNE Attachment. BellSouth has also agreed to continue to negotiate the adopted language in a mutually acceptable manner, as well as, to amend AT&T's Agreement to allow TCS to become a party to the existing Agreement. BellSouth believes these are reasonable options considering the nature of the events that have occurred in the past several months.

If you have any questions, please give me a call at 404.927.7596.

Sincerely,

Original signed by Nicole Bracy

Nicole Bracy
Manager, Interconnection Services

BEFORE THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

In the matter of)	
Complaint of TC Systems, Inc. against)	
BellSouth Telecommunications, Inc.)	
for Failure to Comply with)	DOCKET NO. 2004-118-C
47 U.S.C. § 252(i), Petition for)	
Approval of § 252(i) Adoption of Existing)	
Interconnection Agreement, and Request)	
for Expedited Proceeding)	

This is to certify that I have caused to be served this day, one (1) copy of the Corrected Exhibits to the Affidavit of Billy Peacock, Attachment A in support of the Motion for Summary Judgment and Memorandum in Support of Summary Judgment, which were filed on Thursday, July 22, 2004 by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

VIA ELECTRONIC AND FIRST-CLASS MAIL SERVICE

Patrick Turner, Esquire
BellSouth Telecommunications, Inc.
PO Box 752
Columbia SC 29202-0752



Carol Roof

July 26, 2004
Columbia, South Carolina